

STATE OF MICHIGAN

DEPARTMENT OF CONSUMER & INDUSTRY SERVICES

BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

**Boundary Commission
Docket #97-AP-6**

**The proposed annexation of
territory in Pinconning Township
to the City of Pinconning.**

SUMMARY OF PROCEEDINGS, FINDINGS OF FACT AND ORDER

This matter of proposed annexation of the following territory situated in Pinconning Township to the City of Pinconning and described as follows:

For Balance of Sections 22, 23, 26, and 27, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan not currently within the Existing City Limits of the City of Pinconning.

Section 22

The West ½ of Section 22, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan,

ALSO

The West ½ of the Southeast 1/4 of Section 22, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan, lying South of the centerline of the Pinconning River, said West ½ of the Southeast 1/4 also including Lots 1 through 31, Suburban Street, Fenton Drive, and Avis Court comprising the entire plat of the "Fenton Subdivision", recorded Liber 6, Page 4, of the Plat Records for Bay County, Michigan, said West ½ of the Southeast 1/4 also further including Lots 1 through 26 and Center Drive comprising the entire plat of "Garden Acres Subdivision", recorded Liber 5, Page 19, of the Plat Records for Bay County, Michigan,

ALSO

The Southwest 1/4 of the Northeast 1/4 of Section 22, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan, lying South of the centerline of the Pinconning River,

ALSO

The North ½ of the Northeast 1/4 of Section 22, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan, EXCEPTING a parcel described as: "Parcel of land in the northeast 1/4 of the northeast 1/4, section 22, T17N, R4E, Pinconning township, Bay County, Michigan, described as follows: Commencing at a point on the east line of section 22, T17N, R4E, 52 rods and 8 feet south of the northeast corner of said section; thence south along the east section line 26 rods and 6 feet; thence

West 20 rods; thence north 26 rods and 6 feet; thence east 20 rods to the place of beginning, Except right of way to Consumers Power Company and subject to right of way for Highway M-13 on the east side of said land. Contains approximately 3.3 acres of land."

Section 23

The North ½ of the Northwest ¼ of Section 23, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan EXCEPTING a parcel of land described as: "A parcel of land, situate and being in Pinconning Township, Bay County, to-wit: The south 475 feet of the north ½ of the northwest ¼ of section 23, T17N, R4E, lying between the Penn Central Railroad right-of-way and Water Street."

ALSO

The East ½ of Section 23, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan, EXCEPTING a parcel of land described as:

"Commencing at the south ¼ corner of section 23, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan; thence east 16.0 feet along the south section line to the point of beginning; thence north 01°38'30" west 310.45 feet parallel to the north-south ¼ line; thence east 98.47 feet parallel to the south section line; thence north 43°55' east 398.0 feet; thence north 46°21'55" east 21.45 feet; thence south 73°08' east 151.0 feet along an existing fence; thence south 1°00' east 568.0 feet; thence west 535.87 feet along the south section line to the point of beginning, except all that part lying northwesterly of an existing ditch centerline on the northwesterly side thereof."

FURTHER EXCEPTING from said East ½ of Section 23 a parcel of land described as:

"Beginning at the south ¼ corner of section 23, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan; thence north 1°38'30" west 1510.99 feet along the north-south ¼ line; thence north 89°57'40" east 209.0 feet parallel to the south 1/8 line; thence south 1°38'30" east 209.0 feet parallel to the north-south ¼ line; thence north 89°57'40" east 1156.61 feet along the south 1/8 line; thence south 18°52'20" west 839.0 feet along the westerly line of the D & M R.R. right of way; thence north 61°47'10" west 699.83 feet along the northerly line of the former S.B. & W. R.R. right of way; thence south 61°57'10" west 63.74 feet along the centerline of the Bartlett Drain; thence south 3°45'36" east 143.59 feet along the centerline of an existing drain; thence south 4°31'09" west 52.16 feet along the centerline of said drain; thence south 73°08' east 8.3 feet; thence south 46°21'55" west 21.45 feet; thence south 43°55' west 398.0 feet; thence west 98.47 feet; thence south 1°38'30" east 310.45 feet parallel to the north-south ¼ line; thence west 16.0 feet along the south section line to the point of beginning. Including all land between the above described parcel and the centerline of an existing ditch on the southeasterly side thereof."

Section 26

The East ½ of Section 26, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan,

ALSO

The Southwest ¼ of Section 26, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan,

ALSO

The Southwest 1/4 of the Northwest 1/4 of Section 26, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan, EXCEPTING from said Southwest 1/4 of the Northwest 1/4 a parcel of land described as: "The North 60 feet of the West 750 feet of Mary Street in Belchak Subdivision in the SW 1/4 of the NW 1/4, Section 26, T17N, R4E.", ALSO INCLUDING in said Southwest 1/4 of the Northwest 1/4, Lots 1 through 55, Joseph Drive, McLain Street, Mercer Street, Van Ettan Street, and all that part of Mary Street not currently within the existing city limits, as excepted and described above, all being a part of the Belchak Subdivision, recorded Liber 7, Page 11, of the Plat Records for Bay County, Michigan, ALSO INCLUDING in said Southwest 1/4 of the Northwest 1/4, Lots 1-9 of the "Zuziak Subdivision", recorded Liber 7 Page 15, of the Plat Records for Bay County, Michigan,

ALSO

The Southeast 1/4 of the Northwest 1/4 of Section 26, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan, EXCEPTING from said Southeast 1/4 of the Northwest 1/4 a parcel of land described as: "Com. at Inter of N LI of SE 1/4 of NW 1/4 WI C/L of Jane St., Th W 375 ft., Th S 385 Ft, Th E 375 Ft, Th N 385 Ft to POBB; Sec 26, T17N, R4E.",

Section 27

The West 1/2 of Section 27, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan,

ALSO

The Southeast 1/4 of Section 27, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan,

ALSO

The South 1/2 of the Northeast 1/4 of Section 27, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan,

ALSO

The Northwest 1/4 of the Northeast 1/4 of Section 27, Town 17 North, Range 4 East, Pinconning Township, Bay County, Michigan.

SUMMARY OF PROCEEDINGS

- A. On March 18, 1997, a petition was filed requesting the annexation of certain territory in Pinconning Township to the City of Pinconning.
- B. On June 12, 1997, an adjudicative meeting was held to determine legal sufficiency and the petition was found to be legally sufficient pursuant to Public Act 191 of 1968, as amended, and Public act 279 of 1909, as amended.
- C. On October 9, 1997, a public hearing was held to receive testimony given pursuant to Public Act 191 of 1968, as amended. Notice of said hearing was published and mailed pursuant to

Section 8 of Public Act 191 of 1968 as amended.

- D. On February 4, 1998, an adjudicative meeting was held to consider the docket. The Commission requested that the Township and City determine an area which would include the previously petitioned area, and have more than 100 residents.
- E. On April 9, 1998, an adjudicative meeting was held to consider the docket. The Commission voted to recommend denial of the annexation as petitioned.

INFORMATION FROM THE RECORD

1. According to the record the petitioned area has:
 - a population of 350,
 - 1,170 acres zoned Residential, 640 acres zoned Agricultural, 95 acres zoned Commercial, and 15 acres zoned Industrial.
2. The City stated:
 - They request that the Commission consider amending the area proposed for annexation. They ask that the Commission focus on the area that was the subject of the earlier petition filed by 20 percent of registered voters that was rejected at legal sufficiency.
 - It is their understanding that the majority of residents of the proposed area in the previously filed petition desire annexation.
 - Although only one resident in the area testified at the public hearing, others have stated they support annexation so they can have public water and sewer. They chose not to testify or attend due to the opposition.
3. The City reported that in the previously petitioned area:
 - there are fewer than 100 residents,
 - the zoning is Suburban Residential
 - there are approximately 100 acres, and
 - the majority of the people are desirous of annexation because they want water and sewer, primarily due to health concerns.
4. The Township reported:
 - The Board is opposed; they believe improvements which will benefit both entities can be accomplished without annexation.
 - Many of the people that signed the previous petition for annexation have signed a new petition in opposition to annexation.
 - The Township and residents want to hold off annexation so the City and Township can work together to provide services to this neighborhood. They filed this petition as a "blocking petition".

- The Township has paid for a study to determine the cost for a water and sewer line along Pinconning Road from the western City limit to the expressway.
- The Township is in the final process of developing a DDA District at the interchange to capture any revenues for infrastructure improvement.
- Grant applications for water and sewer are pending.

THE COMMISSION FINDS THAT

1. The area petitioned includes rural areas with low population density that are not suitable for annexation.

IN CONCLUSION, THE COMMISSION FINDS THAT

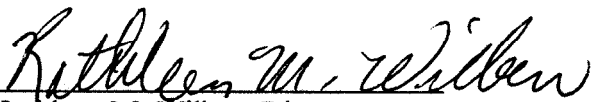
1. The Commission has considered the record of this docket in accordance with the criteria stipulated under Section 9 of Public Act 191 of 1968, as amended.
2. On April 9, 1998, State Boundary Commissioners VerBurg and Walker and Bay County Boundary Commissioner Boettger held an adjudicative meeting during which:
 - Commissioners VerBurg, Walker, and Boettger voted to deny annexation of the subject territory as petitioned and described herein, and
 - the staff was directed to prepare draft Findings of Fact and Order.
3. On May 7, 1998, State Commissioners VerBurg and Rutledge, and Bay County Boundary Commissioners Boettger and Carbary held an adjudicative meeting during which
 - the draft Findings of Fact and Order was reviewed, and
 - the Commission voted to adopt the Findings of Fact as amended and to recommend that the Director of the Department of Consumer and Industry Services sign the Order.

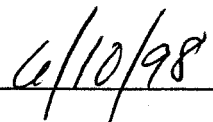
ORDER

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IT IS ORDERED THAT, the Executive Director shall forthwith transmit a certified copy of these Findings of Fact and Order denying annexation of the described territory, to the petitioner, effective 30 days after the date the Director of the Department of Consumer and Industry Services signs the Order.

IT IS FURTHER ORDERED THAT, the Executive Director shall forthwith transmit a certified copy of these Findings of Fact and Order to the Bay County Clerk, the Pinconning Township Clerk, and the City of Pinconning Clerk.


Kathleen M. Wilbur, Director
Department of Consumer and Industry Services


Date